

SOME VIEWS ON THE USE OF FAMILY, CHILDREN AND FRIENDS AS INTERPRETERS

I. STATEMENT OF QUEENA LU, Student

“I’m sorry to tell you this but your mom has cancer. The hemorrhoid we found turned out to be a tumor. I know that your mom doesn’t speak English so can you please interpret for her.”

I don’t like sitting in the hospital, and I feel uncomfortable. I want to tell the doctor that I don’t want to be here. But since my mom doesn’t speak English, my sister Janice and I are the only ones that can help mom. The doctor looks at me and he begins to talk about my mom’s medical condition. He talks to me as simply as possible, so I can understand the situation, and says my mother’s cancer would require surgery and probably radiation and chemotherapy treatments afterward.

I am shocked. Surgery. Radiation. Chemotherapy. Side effects. I can’t even begin to think of how I’m going to tell my mom. All this information is new to me; all those big words sound horrible. And the doctor is expecting me to tell mom this in Cantonese.

I begin to translate for my mom. She looks back at me with watery eyes. I search for comforting words in Cantonese that would help calm her, but I am lost. It’s hard enough to think of the Cantonese terms for various organs, for surgery and chemotherapy.

Instead, I describe the situation in basic terms, and leave gaps in-between my explanation. Since I don’t know how to say “surgery,” I tell her that there will be needles, knives, tubes, and cuts into her body.

My mom bursts out crying, pushing me away. She doesn’t want to see anyone.

II. ISABEL FRAMER, JUDICIARY INTERPRETER, Copley, Ohio, 4/20/02

Friends and family members are not neutral parties, no matter how you look at it. They do have some type of interest. The interest could be personal, emotional or possibly monetary. ... In the *Ramirez* case the gun belonged to the friend that provided interpretations at the house when the police arrived. He was the only one that spoke English and told the officer that Ramirez had fired the gun. In addition family and friends for the most part are not professional interpreters. They are not experts in this particular field as outlined by rule 604, 28 USC section 1827 and outlined by rules established in some state courts. ...

Family and friends in addition to not being neutral parties usually have not been tested for language proficiency, interpreting skills, may not have knowledge of legal terminology and/or technical terminology that may arise, they may not have knowledge of the ethics and professional responsibilities and rules and the role pertaining to judiciary interpreters and the modes of interpretation already established by Federal statutes (Simultaneous, Consecutive and Sight Translation). The summary mode of interpretation should NEVER be used.

The following are true cases/examples of what can happen if friends and family members are

used to provide interpretations:

A forcible rape of a minor resulted in a plea negotiation of 5 years instead of life in prison because the police officers used the mother of the victim as the interpreter during Miranda and police interrogation. Instead of interpreting "You have the right to remain silent" the victim's mother told the perp/roommate "You better tell the truth, the whole truth."

In a criminal case, defense attorney and prosecutor argued that each side was lying. The attorney's client told him one thing and swore up and down it was true. The prosecutors witness also swore up and down that her version was true. Later defense attorney learned that the person providing interpreting services was the witness' boyfriend. She had lied to her boyfriend and therefore had to continue lying when the prosecutor questioned her because she was afraid to tell the truth in front of the boyfriend/interpreter because she did not want to jeopardize her relationship with the boyfriend.

In a kidnaping case of a child: the sister of the suspect was used to interpret between police and suspect. Later other family members claimed that the sister/interpreter had been misinterpreting. Police arrested the sister/interpreter and charged her with obstruction of justice. Once in court the defendant's sister/interpreter requested an interpreter. What does that tell you about the sister/interpreters' language proficiency and not to mention the neutrality issue?

III. NATIONAL HEALTH LAW PROGRAM, Comments on Limited English Proficiency Guidance of U.S. Department of Health and Human Services, 4/2/02

Adult family members and/or friends who serve as interpreters may not accurately interpret, which can limit communication between a provider and patient. Untrained interpreters are prone to omissions, additions, substitutions, volunteered answers and other problematic practices. For example, family members/friends may not understand the need for complete and accurate translation and may summarize information from the patient, inject their own opinions/observations, or impose their own values/judgments as they translate. Many untrained interpreters, family members and friends used as interpreters are themselves limited in their English language abilities and may be completely unfamiliar with medical terminology, which diminishes their capacity to accurately interpret. Further, this practice raises confidentiality questions, as many patients will not disclose sensitive or private information to family members/friends, resulting in incomplete information that can negatively impact a provider's ability to diagnose a condition.

IV. GRACE ZENG, Testimony Before the California Senate Judiciary Committee and the Assembly Select Committee on Language and Access to Government Services, February 26, 2002

I am 16 years old, and my family moved to the US from China for about 9 years ago. I speak Cantonese at home because my parents still have a lot of difficulty speaking English. I am the oldest child in my family, which means my family expected me to help them translate. Translating is a lot of pressure! Translating from one language to another is very different and difficult. Every time when I'm translating for my parents I'm afraid I will translate something wrong, and that my mistakes will hurt my family.

For example, when I was only about ten years old, my family applied for both Medi-Cal and Food Stamps because my dad had a low paying job and my mom didn't work. Although we were assigned to a Chinese-speaking social worker, many of the forms that our family had to fill out were in English. From time to time, the government would send forms to our home to verify our family's income and update information. Because no one else in my family could read the English forms, I had to fill them out. But my English was limited, I was always afraid that I would make a mistake, and my family would either lose our income or health care. I felt that there's a lot of weight on my shoulders, and I'm glad that I don't have to do that anymore. ...

...Not only is translating hard, but it also causes a lot of tension between me and my parents. My parents don't like to rely on me, and they know that I am tired of translating for them. Recently, my father and I argued because I didn't want to miss school to go to the DMV to help him get his California ID renewed. And when I tell my parents that I don't know how to translate something they get upset. Sometimes, I don't think they trust me....

V. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, LEP GUIDANCE, 67 F.R. 4968, 4975 (February 1, 2002)

(a) *Use of Friends, Family and Minor Children as Interpreters* -- A recipient/covered entity may expose itself to liability under Title VI if it requires, suggests, or encourages an LEP person to use friends, minor children, or family members as interpreters, as this could compromise the effectiveness of the service. Use of such persons could result in a breach of confidentiality or reluctance on the part of individuals to reveal personal information critical to their situations. In a medical setting, this reluctance could have serious, even life threatening, consequences. In addition, family and friends usually are not competent to act as interpreters, since they are often insufficiently proficient in both languages, unskilled in interpretation, and unfamiliar with specialized terminology.

If after a recipient/covered entity informs an LEP person of the right to free interpreter services, the person declines such services and requests the use of a family member or friend, the recipient/covered entity may use the family member or friend, if the use of such a person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The recipient/covered entity should document the offer and declination in the LEP person's file. Even if

an LEP person elects to use a family member or friend, the recipient/covered entity should suggest that a trained interpreter sit in on the encounter to ensure accurate interpretation.

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